

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MITCHELL DANYELL BANKS,)	
)	
Plaintiff,)	
)	
v.)	1:22-cv-602
)	
DANNY ROGERS, Sheriff, D.W.)	
COOKE, Sergeant, W.M. EVANS,)	
Deputy, J.M. ALLEN, Deputy)	
and TRAVELERS CASUALTY,)	
)	
Defendants.)	

ORDER

This matter is before the court for review of the Order and Recommendation ("Recommendation") filed on September 2, 2022, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b).

(Doc. 3.) In the Recommendation, the Magistrate Judge recommends that this action be dismissed as to all but one Defendant for failure to state a claim upon which relief may be granted, pursuant to Section 1915A. (Id.) The Recommendation was served on the Plaintiff on September 2, 2022. (Doc. 4.) Plaintiff filed Objections to the Recommendation. (Doc. 9.)

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the Recommendation as well as Plaintiff's Objections and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 3), is **ADOPTED. IT IS FURTHER ORDERED** that Plaintiff's individual capacity claim against Defendant Evans be allowed to proceed but that his official capacity claim against Defendant Evans and all claims against all of the other Defendants be **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915A for failing to state a claim upon which relief may be granted.

This the 14th day of February, 2023.



United States District Judge